

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2198.05
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	December 10, 2004
DATE OF REPORT:	January 28, 2005
REQUEST FOR RECONSIDERATION:	yes/February 10, 2005 - no change
DATE OF CLOSURE:	May 6, 2005

COMPLAINT ISSUES:

Whether Johnson County Special Services (the Interlocal) violated:

34 CFR § 300.622 by failing to meet requirements for use of a subgrant for capacity-building and improvement, specifically by using "sliver grant" funds for students who did not meet the criteria described in the subgrant application.

On January 4, 2004, the Associate Superintendent granted an extension of time until January 28, 2005, because of the need for records that were not available during the School's winter recess and the need for time to analyze those records

FINDINGS OF FACT:

1. This Complaint was filed on behalf of all students currently served by the Interlocal who have been identified as disabled and eligible for services in the Stay In School program.
2. The United States Department of Education (USDOE) provides funding for capacity-building and improvement grants (Sliver Grants) to assist local educational agencies in providing direct services and in making systemic change to improve results for students with disabilities. The activities for which Sliver Grants may be used include:
 - (a) Direct services, including alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.
 - (b) Addressing needs or carrying out improvement strategies identified in the State's Improvement Plan under subpart 1 of Part D of the Act.
 - (c) Adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources.
 - (d) Establishing, expanding, or implementing interagency agreements and arrangements between LEAs and other agencies or organizations concerning the provision of services to children with disabilities and their families.
 - (e) Increasing cooperative problem-solving between parents and school personnel and promoting the use of alternative dispute resolution.

3. The Indiana Department of Education, Division of Exceptional Learners (Division) administers the Sliver Grants in this state. Utilizing its priority-setting authority under 34 CFR § 300.624, the Division established the following Project Funding Areas for Sliver Grants:
 - (1) Alternative programming for children who have been expelled from school, and services for children in correctional facilities.
 - (2) Purchasing assistive technology devices and services consistent with the intent of the State's PATINS projects.
 - (3) Implementing promising, innovative practices (beyond basic special education programs) based upon unique local needs.
 - (4) Establishing, expanding, or implementing interagency agreements and arrangements between LEAs and other agencies or organizations concerning the provision of services to children with disabilities and their families.
 - (5) Increasing cooperative problem-solving between parents and school personnel.
 - (6) Addressing needs or carrying out improvement strategies identified in the State's Improvement Plan under subpart 1 of Part D of the Act.

4. The Interlocal applied for and was awarded consecutive, annual Sliver Grants to pay a portion of the cost of a program called Stay In School. The Project Narrative Information sections (Narratives) of the Interlocal's applications for fiscal years 2003, 2004, and 2005 are substantially the same. The Narratives described the Stay In School program as having a program mission focused on the following three Project Funding Areas:
 - Alternative Programming;
 - Promising Innovative Practices; and
 - Cooperative Problem Solving With Parents.
 The Narratives describe the students enrolled in Stay In School as "expelled students with an identified disability and are clients of Juvenile Probation."

5. All students served in the Stay In School program were students with disabilities including one student placed while in referral status giving protections as students with disabilities. However, not all students were on probation or expelled or both. The chart below indicates the number and status of students served in the Stay In School program:

School Year	Probation Only	Expelled Only	Both	Neither	% of students neither on probation nor expelled
2002-2003 (fiscal 2003)	11	3	3	1	5.56%
2003-2004 (fiscal 2004)	6	5	7	6	25.00%
2004-2005 (fiscal 2005)	5	2	3	3	23.08%

6. The Interlocal's Sliver Grants for fiscal years 2003, 2004, and 2005 are as follows:

2002-2003 (FY 2002)	\$68,617	
2003-2004 (FY 2004)	\$62,791	
2004-2005 (FY 2005)	\$55,539	(This Sliver Grant will conclude June 30, 2005.)

7. The Interlocal submitted documentation of publication of public participation notices by submitting Publisher's Claims and Publisher's Affidavits dated August 15, 2002, July 12, 2003, and July 26, 2004.

CONCLUSION:

Though all students served in the Stay In School program are students with disabilities, not all students met the eligibility requirements as stated in the Sliver Grant application. Therefore, a violation is found.

Finding of Fact #7 indicates that there was no violation with regard to the required public participation notices concerning programs for 2002-2003, 2003-2004, or 2004-2005.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

1. For the 2002-2003 school year, 5.56% (1 of 18) of the students served by the Stay In School program was neither expelled nor on probation. The Interlocal is ordered to repay 5.56% of the \$68,617 Sliver Grant award, or \$3815.10.
2. For the 2003-2004 school year, 25% (6 of 24) of the students served by the Stay In School program were neither expelled nor on probation. The Interlocal is ordered to repay 25% of the \$62,791 Sliver Grant award, or \$15,697.75.
3. The 2004-2005 grant award is for the period from July 1, 2004 – June 30, 2005. Seven of the 12 months of the grant award have passed (58%). Fifty-eight (58%) of the 04-05 grant award is \$32,212.62. There were 23.08% of students served in the Stay In School program this year to date who are neither on probation nor expelled. This percentage (23.08%) of the pro-rated Sliver Grant award to date (\$32, 212.62) equals \$7434.67. The current Sliver Grant is to be amended to reduce the current year's Sliver Grant award by \$7434.67.
4. The Interlocal is ordered to stay within the scope of the current grant unless an amendment is submitted and approved per 34 CFR § 80.30 (d) (1) of the Education Department General Administrative Regulations (EDGAR).

In summary, the Interlocal is to repay the Indiana Department of Education a total of \$19,512.85 by May 1, 2005. In addition, the current Sliver Grant is to be amended to reduce (amend) the current year's Sliver Grant award by \$7,434.67. This, too, is to be completed by May 1, 2005. Finally, the Interlocal is ordered to stay within the scope of the grant regarding student eligibility or submit an amendment requesting a change in eligibility of students to be served.